

15
ML

Notice of Allowability

Application No.

10/785,066

Applicant(s)

ISHIKAWA, TAKATOSHI

Examiner

Hoa V. Le

Art Unit

1752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to ____.
2. ☒ The allowed claim(s) is/are 1-10.
3. ☒ The drawings filed on 19 July 2004 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: ____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date ____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date ____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 31 March 2004
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date ____.
7. ☐ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other ____.

Hoa V. Le
Primary Examiner
Art Unit: 1752

2e

This application is before the examiner for consideration on the merits.

A. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

AMENDMENT: The non-elected invention of claim 11 has been canceled to put the application in a condition for an allowance.

B. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-10, drawn to a method of using-by-method of making, classified in class 430, subclass 398.
- II. Claim 11, drawn to a product-by-(method of using-by-method of making, classified in class 430, subclass 465.

Inventions Group I and Group II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, the process of reusing the waste photographic granules as claimed can be practiced with another materially different product known in the art such as a solution or tablet form.

Art Unit: 1752

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Mr. Marc S. Weiner on 04 April 2005 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-10. Affirmation of this election must be made by applicant in replying to this Office action. Claim 9 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

B. Applicant's prior art submission filed on 31 March 2004 has been considered to the extent of the English language being provided.

C. There is on the record that Fuji Photo and their counsel fail to comply 37 CFR 1.56 with at least to two sets of the closely related inventions of application Serial Nos. 10/638,368 (Pub. No. 2004/0052517) and 10/946,108 (Pub. No. 2005/0069820). It is requested and required that the instant claims should and must be disclosed for the record in application Serial No. 10/946,108 (Pub. No. 2005/0069820) before an Office action on the merits is made for a proper and timely considered and examination because some of the claims are subjected to a double patenting rejection over the instant claims. It is now notified and set forth the record.

Art Unit: 1752

D. The following is an examiner's statement of reasons for allowance:

(1) Baird (3,891,495) discloses, teaches and suggests the use of a thin film evaporator to solidify a waste photographic processing solution in to a power form but fails to disclose, teach or suggest to reuse the powder as solid photographic processing composition as claimed.

(2) Patentees in Japanese Patent No. 2000024402 disclose, teach and suggest the use of a thin film evaporator to solidify a waste photographic processing solution in to a solid form but fail to disclose, teach or suggest to reuse the solid as a photographic processing composition as claimed.

(3) Patentee in JP-A-10-288829 with respect to "Concise explanation of document" in English language as provided in Application Serial No. 10/638,368 (Pub. No. 2004/0052517) discloses, teaches and suggests that (a) an overly cumulative chemical ingredient from a waste photographic processing solution to be a conditioning solution and (b) the conditioning solution is solidified for reuse as photographic processing composition but fails to disclose, teach and suggest of "without removing ingredients accumulated" as claimed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

E. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoa V. Le whose telephone number is 571-272-1332.

The examiner can normally be reached from 6:30 AM to 4:30 PM on Monday though Thursday

Art Unit: 1752

and about the same time of most Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia Kelly can be reached on 571-272-1526.

Applicants may file a paper by (1) fax with a central facsimile receiving number 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hoa V. Le
Primary Examiner
Art Unit 1752

HVL
19 April 2005

HOA VAN LE
PRIMARY EXAMINER
